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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/075,180

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Jeffrey Duane Vance

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7284

7590

05/11/2004

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EXAMINER

NOLAN, SANDRA M

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 05/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/075,180	<b>Applicant(s)</b> VANCE ET AL.	
	<b>Examiner</b> Sandra M. Nolan	<b>Art Unit</b> 1772	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-14 and 30-36 is/are pending in the application.
- 4a) Of the above claim(s) 15-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Claims***

1. Claims 1, 3-14 and 30-36 are pending. Claim 2 is cancelled. Claims 15-29 have been withdrawn.

### ***Allowable Subject Matter***

2. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Claim Objection***

3. Claim 14 is objected to because of the following informalities: the phrase "a aramid" is not grammatically correct. Appropriate correction is required.

### ***Rejections Maintained***

4. The 35 USC 103 rejection of claims 13-14, as unpatentable over Widder in view of Fortier, Gould and Rousseau (US 5,789,327), as expressed in section 14 of the 10 October 2004 office action, is maintained for reasons of record.

### ***Rejections Withdrawn***

5. The 35 USC 102 rejection of claims 1 and 2 as anticipated by Hollis (US 3,969,563), as set out in section 10 of the 10 October 2003 office action, is withdrawn in view of applicant's amendments to the claims in the 13 February 2004 response.

6. The 35 USC 103 rejection of claims 1-5, 7-9 and 11-12 as unpatentable over Widder (US 5,072,453) in view of Fortier et al (US 4,810,559) and Gould et al (US

5,220,263), as recited in section 13 of the 10 October 2003 office action, is withdrawn in order to apply the new ground of rejection below.

***New Rejections***

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 10, 13, 14, 30 and 32-34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The examiner is unable to find support in the specification as filed for the limitations newly recited in these claims.

Please set forth the textual support for the new limitations or cancel them from the claims.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Since polymers may be elastomeric, it is not clear what "an elastomeric or polymer material" (recited in line 2) means. Please clarify.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

13. Claims 1, 4-5, 7-9, 11-12 and 30-36 rejected under 35 U.S.C. 103(a) as being unpatentable over Widder in view of Fortier et al and Gould for reasons of record.

Widder, Fortier and Gould and their applicability are discussed in section 13 of the 10 October 2003 office action.

In the absence of convincing objective evidence to the contrary, the use of lamination/sealing to form seams is a matter of engineering choice, depending upon the properties desired in the final material.

In the absence of convincing objective evidence to the contrary, the positioning of the plates/substrates in the material is a matter of engineering choice, depending upon the properties desired in the final material.

In the absence of convincing objective evidence to the contrary, the use of the material to make gloves is deemed a matter of intended use and does not distinguish the gloves from other articles made from the material.

In the absence of convincing objective evidence to the contrary, the use of wire mesh support is deemed a matter of engineering choice, depending upon the properties desired in the final material.

In the absence of convincing objective evidence to the contrary, the shape of the plates used is deemed a matter of design/engineering choice depending upon the appearance and/or properties desired.

#### ***Response to Arguments***

14. Applicant's arguments filed in the 13 February 2004 response with respect to claims 1 and 3-14 have been considered but are moot in view of the new ground(s) of rejection.

Also, Applicant's arguments filed in the 13 February 2004 response concerning rejections maintained above have been fully considered but they are not persuasive.

On page 9 of the response, applicant argues that neither Fortier nor Gould discloses a bulletproof protection/system and that this means there is no basis for using in them in combination with Widder.

However, the 35 USC 103 rejection at issue summarizes the references, their analogous nature and the motivation to combine them. Applicant has failed to convince the office that the rejection, as stated above and in the 10 October action, is erroneous.

Later on page 9 of the response, Applicant argues that the amendments to claims 13 and 14 added features that render the 35 USC 103 rejection over Widder, Fortier, Gould an Rousseau untenable.

However, the 35 USC 103 rejection at issue summarizes the references, their analogous nature and the motivation to combine them. Applicant has failed to convince the office that the rejection, as stated above and in the 10 October action, is erroneous.

Furthermore, the limitations added to claim 13 via the 13 February 2004 amendment were new matter and should be removed. See section 8, above.

#### ***Final Rejection***

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

16. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from its mailing date. In the event a first reply is filed within TWO MONTHS of the mailing date and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action.

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17. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**Conclusion**

Any inquiry concerning this communication should be directed to Sandra M. Nolan, whose telephone number is 571/272-1495. She can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time. If attempts to reach the examiner are unsuccessful, her supervisor, Harold Pyon, can be reached at 571/272-1498. The fax number for patent application documents is 703/872-9306.



S. M. Nolan  
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